HON'BLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION NO. 21558 OF 12006

DATE: 19.2.2007

Between:

K. Raghupathi, S/o late Suryarao, Male, Hindu, aged 36 years.

…Petitioner

AND

1. SI of Police III Town Law and Order Police Station, Visakhapatnam and three others

….Respondents

HON'BLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION NO. 21558 OF 2006

ORAL ORDER:

The petitioner is the absolute owner of the house bearing Door No. 8-34-6/1 with assessment No. 31364 to an extent of 232 sq. yards in T.S.No. 923 of Chinna Waltair in Ward No. 22 of Municipal Corporation, Visakhapatnam. Abetting the said house an extent of 20 sq.yards to the south of the said property belongs to his uncle Konda Rama Rao, and the said Rama Rao died on 30.12.1990 without issues and the father of the petitioner also died on 25.5.1989. It is stated that one Kona Venkata Radhakrishna has been the adopted son of the said Ramarao and the said Venkata Radhakrishna filed a suit for mandatory injunction. It is stated that as per the documents, the actual extent of the site is 170 sq. yards but on the ground the actual area is 232 sq. yards. It is stated that the petitioner obtained the permission from the Municipal Corporation, Visakhapatnam, vide proceedings BA 11597/ACP-II G1 dated 13.9.2005 for construction of a building and while work is in progress, the said Venkata Radhakrishna obstructed and therefore, the petitioner filed O.S.No. 516 of 2006 against Radha Krishna for permanent injunction and the same is pending. It is stated that while so, one B. Trinatharao, 4th respondent, who is the practicing advocate, and who has been jointly practicing with Radha Krishna, Advocate, knowing the disputes, obtained sale deed to an extent of 105.5 sq. yards on 1.6.2005 and he also obtained permission for the construction of the house. Against which, the petitioner filed a suit. Thus it is stated that civil disputes have pending between the petitioner and the 4th respondent. In that connection, it is stated that the fourth respondent and respondents 1 and 2 are illegally making the petitioner to sit in the police station and therefore, the petitioner filed a complaint on 11.4.2006, but no action has been taken. Aggrieved by the same, the petitioner filed a written complaint before the Commissioner of Police, Visakhaptnam on 27.6.2006 but so far no action has been taken.

The first respondent filed a counter stating that the police never interfered with the civil disputes of the petitioner at any point of time. In spite of the complaint lodged by the petitioner, a case in Crime No. 698 of 2006 under Sections 447, 427, 324 and 506 r/w 34 IPC was registered on 11.8.2006 and the petitioner shown as accused No. 1. The petitioner's brother also filed a complaint, based on which, a Crime No. 597 of 2006 was registered against the 4th respondent also. As the petitioner and the 4th respondent are causing inconvenience and disturbance in the disputed land, a suo-moto case was registered against the petitioner and others and 4th respondent and others in Crime No. 601 of 2006 under Section 107 Cr.P.C on 12.8.2006 and the same was forwarded to the

Sub-Divisional Executive Magistrate at Visakhapatnam. It is stated that with regard to the complaint filed before the Commissioner of Police, the applications made with regard to the said complaint were denied.

The Commissioner of Police also filed a counter stating that soon he received the complaint dated 27.6.2006 he forwarded the same to the Inspector, III Town Police Station, Visakhapatnam City, for taking necessary action in the context of the orders dated 13.4.2006, granting interim stay, by the High Court, in Cr. M.P.No. 2657 of 2006 and accordingly, the Inspector of Police submitted a report. The report revealed that the said allegations are false. It is stated that in view of the civil disputes pending between the petitioner and the 4th respondent, police never interfered with the civil rights of the petitioner. In fact, the 4th respondent states that the injunction application filed by the petitioner was dismissed and police aid was also directed to be given.

In view of the aforesaid reasons and also in view of the civil disputes pending between the petitioners and the respondents, I am of the opinion that the allegations made by the petitioner against the respondents are not found to be correct and the same are made to divert the investigation in pending cases. Hence, the Writ Petition is liable to dismissed.

Accordingly, the Writ Petition is dismissed. No order as to cost.

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V. ESWARAIAH, J

Date: 19.02.2007
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